

New Zealand key tax changes

October 2009 - July 2011

1 2010 Government Budget

Tax rate changes

- Reduction in personal income tax rates from 1 October 2010
- Goods and Services Tax (GST) increased from 12.5% to 15% from 1 October 2010
- Company tax rate reduced from 30% to 28% from 1 April 2011 (2011-12 income year)
- Top tax rate for Portfolio Investment Entities reduced from 30% to 28% from 1 October 2010

Depreciation

- Removal of depreciation deductions for buildings with an estimated useful life of 50 years or more. Applicable from the 2011-12 income year
- Removal of depreciation loading – from 5 May 2010, taxpayers have been unable to claim 20% accelerated depreciation on new plant and equipment

Look Through Company (LTC) regime

- A new tax entity known as an LTC is available for use from income years beginning on or after 1 April 2011
- The aim of the LTC is to provide a transparent form of tax treatment where income and expenses are shared accordingly to the owner's effective interest in the LTC
- The LTC will effectively replace Qualifying Companies (QCs) and Loss Attributing Qualifying Companies (LAQCs) as LAQCs will be unable to attribute losses to shareholders from income years beginning on or after 1 April 2011
- For income tax purposes an LTC will be able to pass on its income, expenses, tax credits, gains and losses to its owners, similar to the tax

treatment for partners in a partnership

- This treatment is different from an LAQC as owners of an LTC are taxed on the profits of the company, as well as being able to offset any losses from the LTC against their personal income

2 Double Tax Agreements ("DTA")

United States

- Withholding tax reductions
 - Dividends: 5% - 0% subject to certain criteria
 - Interest: 10% - 0% subject to certain criteria
 - Royalties: 5%
- Withholding tax rates apply from 1 January 2011, with all other New Zealand taxes applying for income years beginning on or after 1 April 2011



Australia

- Withholding tax reductions
 - Dividends: 5% - 0% subject to certain criteria
 - Interest: 10% - 0% subject to certain criteria
 - Royalties: 5%
- Broader Permanent Establishment (PE) definition
- Withholding tax rates apply from 1 May 2010, with all other New Zealand taxes applying for income years beginning on or after 1 April 2010

Singapore

- Withholding tax reductions
 - Dividends: 5%
 - Interest: 10%
 - Royalties: 5%
- Broader PE definition
- Withholding tax rates apply in New Zealand from 1 October 2010, and in Singapore from 1 January 2011. All other New Zealand taxes generally apply for income years beginning on or after 1 April 2011

3 International taxation

Foreign Investment Fund (FIF) regime for non-portfolio investors

- A new Bill is currently about to pass its second reading in Parliament, proposing new changes to the FIF regime for non-portfolio investors
- It has been proposed that the changes to the FIF regime for non-portfolio investors will apply for income years commencing on or after 1 July 2011
- The changes aim to largely align the tax treatment for outbound investment in regard to non-portfolio FIFs and Controlled Foreign Companies (CFCs)
- This will be achieved through an active income exemption calculation made available for non-portfolio FIFs which meet certain requirements:
 - Satisfy the active business test <5% passive income
 - Meet the Australian exemption
- These two exemptions are offered in response to the repeal of the current grey-list exemption for non-portfolio FIF interests
- Some taxpayers may face significant compliance costs when using the active income exemption, therefore some may opt to calculate their assessable income using a different method
- Another major initiative in this Bill is the exemption from Approved Issuer Levy (AIL) for interest payments on certain bonds. To

apply, the bonds must be listed on a recognised stock exchange or be held by at least 100 people

- This change is intended to help towards the development of a New Zealand bond market, by removing potential barriers to non-resident investment in New Zealand corporate bonds

Controlled Foreign Companies

- In 2009, new rules were introduced in regard to how New Zealand taxes offshore income earned through controlled foreign companies
- The purpose of these rules was to align New Zealand tax rules with other countries and to help New Zealand based businesses to compete more effectively in foreign markets
- Under these new rules, only certain types of passive income derived by CFCs will be attributed back to New Zealand shareholders
- The grey list exemptions and conduit relief have also been repealed. Now, CFCs are not required to attribute income if:
 - <5% of a CFCs total income is attributable income
 - The CFC is a non-attributing Australian CFC
- However, if the CFC derives certain personal services income/loss, such income/loss will always be attributed, even when the CFC applies for the exemptions listed above
- Most foreign dividends received by New Zealand companies are treated as wholly exempt for income tax purposes

Thin Capitalisation

- The thin capitalisation rules have been extended to cover outbound entities (New Zealand residents holding an interest in a CFC)
- The majority of the existing safe harbour thresholds based on the New Zealand group and worldwide group debt percentages apply to outbound entities
- However, from the 2011-12 income year the safe harbour threshold for the debt percentage of the New Zealand group will be reduced from 75% to 60% in regard to inbound debt investment
- Outbound debt investment will stay at 75%



Portfolio Investment Entities (“PIEs”)

- Currently a new Bill is passing through Parliament which proposes the introduction of two types of PIEs intended to benefit foreign investors
- It is proposed these changes will take effect from the 2012-13 income year
- The introduction of these types of PIEs is in response to the current over-taxation of non-resident investment in PIEs in regard to foreign sourced income
- The first category is a “zero rate foreign investment PIE” which invests the majority of its funds offshore
- Non-resident investors who invest in this type of PIE will face a 0% withholding tax rate on all attributable income
- This type of PIE can only invest a minimal amount in deriving New Zealand sourced income
- The second category of foreign investor PIEs is a “variable rate foreign investment PIE.” This PIE can invest its funds both in New Zealand and offshore
- Non-resident investors who invest in this type of PIE will face variable tax rates on their income depending on the source and type of income
- There are specific rules on who can and cannot be classed as a non-resident investor

4 GST changes

Land transactions

- In response to an increase in “phoenix” fraud schemes, transactions involving a supply of land between GST registered persons will generally be subject to GST at 0%
- Application from 1 April 2011
- Certain exclusions apply ie, principal place of residence
- Broader definition of land

Change-in-use transactions

- Previously GST was apportioned on a principal purpose test. GST registered persons could claim a full input tax credit on goods and services acquired for the principal purpose of making taxable supplies
- From the 2011-12 income year, all goods or services acquired with a mixed purpose will now be apportioned in line with their actual use
- Adjustments may be required to be made in subsequent years if the intended taxable use of the asset differs from the original intended use
- The maximum number of adjustments required differs depending on the value and type of asset

2011 New Zealand political environment

Campaign issues

- The New Zealand general election has been confirmed for 26 November 2011
- Political parties have been voicing their proposals to tackle the country’s deficit problem
- Currently the National Party holds office, and there are plans to partially privatise a number of public assets to fund the Government deficit if they are re-elected for a second term
- The other major political party, the Labour Party, is proposing substantial changes to New Zealand’s tax system. These changes include:
 - The introduction of a comprehensive capital gains tax, imposing a flat tax rate of 15% on all net capital gains, subject to certain exemptions eg family home, personal use assets, etc
 - Increase in the top marginal tax rate to 39% for income earned over \$150,000
 - Removal of GST on fresh fruit and vegetables
- Even with these proposed substantial changes (which are likely to find support from a lower socio-economic voter base), many are predicting the National Party will win the 2011 New Zealand general election

Need more information?

If you require further information on any of these topics or would like details on other accounting matters, contact your local Grant Thornton office:

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